

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**DIRECTORS OF THE OHIO
CONFERENCE OF PLASTERERS
& CEMENT MASONS COMBINED
FUNDS, INC.,**

Plaintiff,

v.

LMS CONSTRUCTION, INC.,

Defendant.

Case No. 2:21-cv-864

Judge Edmund A. Sargus, Jr.

Magistrate Judge Kimberly A. Jolson

ORDER

Plaintiff, Directors of the Ohio Conference of Plasterers and Cement Masons Combined Funds, Inc. (the “Combined Funds”), filed this action on February 26, 2021, to recover sums due from Defendant, LMS Construction, Inc. (“Defendant” or “LMS”), under a collective bargaining agreement and related delinquency policies.

On March 6, 2021, Defendant was served with the Summons and Complaint. (ECF No. 4). On April 1, 2021, the Clerk entered default against Defendant for failure to appear or defend, pursuant to Fed. R. Civ. P. 55(a). (ECF No. 6). Plaintiff thereafter moved the Court for default judgment, pursuant to Fed. R. Civ. P. 55(b)(2). (ECF No. 7). Plaintiff’s motion is supported by the declarations of individuals with managerial oversight of audit and collection functions for their respective Funds. Each declaration includes a detailed accounting of Defendant’s obligation to the respective Plaintiff Fund. The amounts due to the Plaintiff Fund were determined by reference to reports and records submitted by Defendant to Plaintiff.

Having reviewed Plaintiff’s motion and the accompanying declarations, the Court **GRANTS** Plaintiff’s Motion for Default Judgment. (ECF No. 7). The Court **ORDERS** as follows:

- A. Judgment in favor of Plaintiff and against Defendant for unpaid and delinquent contributions owed by Defendant for the period of January 1, 2018, through December 31, 2019, in the amount of \$48,198.66;
- B. Judgment in favor of Plaintiff and against Defendant for accumulated interest in the amount of \$11,703.77 accrued through May 27, 2021, and liquidated damages in the amount of \$5,319.87;
- C. Judgment in favor of Plaintiff and against Defendant for Plaintiff's audit costs for the January 1, 2018, through December 31, 2019 payroll audit, in an amount of \$3,080.00; and
- D. Plaintiffs are further awarded judgment against Defendant in the amount of \$400.00 for costs and \$5,365.50 in reasonable attorney's fees incurred by Plaintiffs in bringing this action to enforce Defendant's obligation, pursuant to ERISA § 502(g), 29 U.S.C. § 1332(g)(2)(D).

The Court retains jurisdiction over this case pending compliance with this Order. The Clerk is directed to enter judgement accordingly and close this case.

IT IS SO ORDERED.

6/21/2021
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE